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10/677,107	09/30/2003	William H. Whitted	GOOGP012	4310
23689	7590	07/09/2007		
Jung-hua Kuo Attorney At Law PO Box 3275 Los Altos, CA 94024			EXAMINER JOHNSON, BLAIR M	
			ART UNIT 3634	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/677,107
Filing Date: September 30, 2003
Appellant(s): WHITTED, WILLIAM H.

Jung-hua Kuo
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/21/07 appealing from the Office action mailed 10/26/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,605,777 Anderson et al 8-2003

Annotated drawing Figs. 1,
14a, 14b, of Anderson et al
(6,605,777)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-14 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Anderson et al.

Initially, see attached annotated Fig. 1 in which the rack is rotated 90 degrees. The side walls are defined by four corner supports, two of which are defined by edges of frame members 22,24, in one plane of a side of the rack and two of which are defined by edges of frame members 22,24, on the opposite side of the rack, and the first side wall being defined by and between two frame members 22,24, rails 28, and elements 30. Now refer to annotated Figs. 14a,b, which show a surface identified as element 28 that is a rail that has a first exterior edge coplanar with the outside surface of the support 24, interior edge recessed from outside surface along an angled surface of rail 28, and end edges at the end of each rail 28 that are welded to the corner supports. Figs. 14a,b, show several angled rails on only one of the two rails on each side. Consequently, multiple rails with an intermediate rail being a "middle" rail are present. See also the crossbar, met by another frame member of elements 22 or 24.

(10) Response to Argument

Applicant has not argued per se against the structure of Anderson et al that meets the structural limitations of the claims. He does argue that the Anderson et al rack does not fulfill the functional limitations of the claims, specifically that the rack of Anderson et al is not capable or intended to support "rack mount electronics modules". It should be noted that the Appealed frame structure does not recite these "rack mount electronics modules". No structure for these modules is recited or known. To say that the modules, of any conceivable structure, cannot be mounted on the Anderson et al rack is untenable. Clearly, the electronic rack of Anderson et al is capable of supporting any number of "modules".

Regarding the argument involving the cross bar, as clearly included in the final rejection, and repeated above, the cross bar is not element 30, as asserted by Appellant, but the edge bar of either element 22 or 24 that are located on a side of the rack orthogonal to the side wall defined above, thereby extending between two other support posts, i.e, "front" corner posts.

To summarize, Appellant has not argued that the structural limitations specifically recited are not anticipated by Anderson et al but only that the structure of Anderson et al is not capable of supporting electronic modules in a certain orientation. Clearly, Anderson is capable of supporting electronic modules, which may be of any size or shape since they are not claimed, in any orientation.

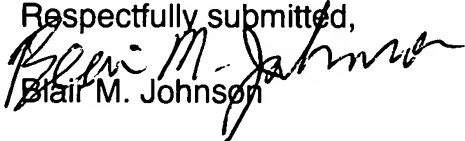
Art Unit: 3634

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Blair M. Johnson

Conferees:

Meredith Petravick 

Greg Strimbu 

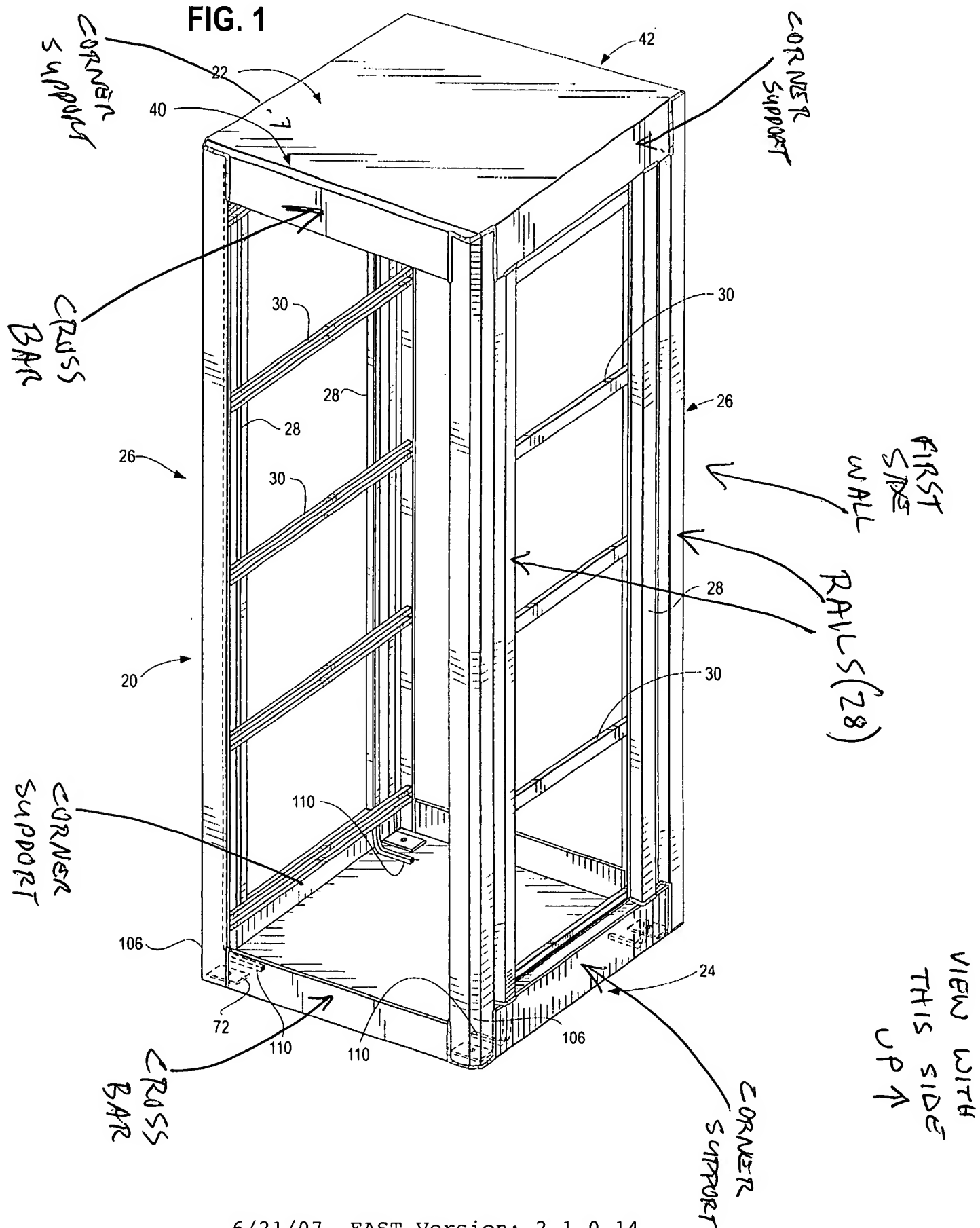
ANNOTATED FIG. 1

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ANNOTATED FIGS. 14a, 14b

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FIG. 14a

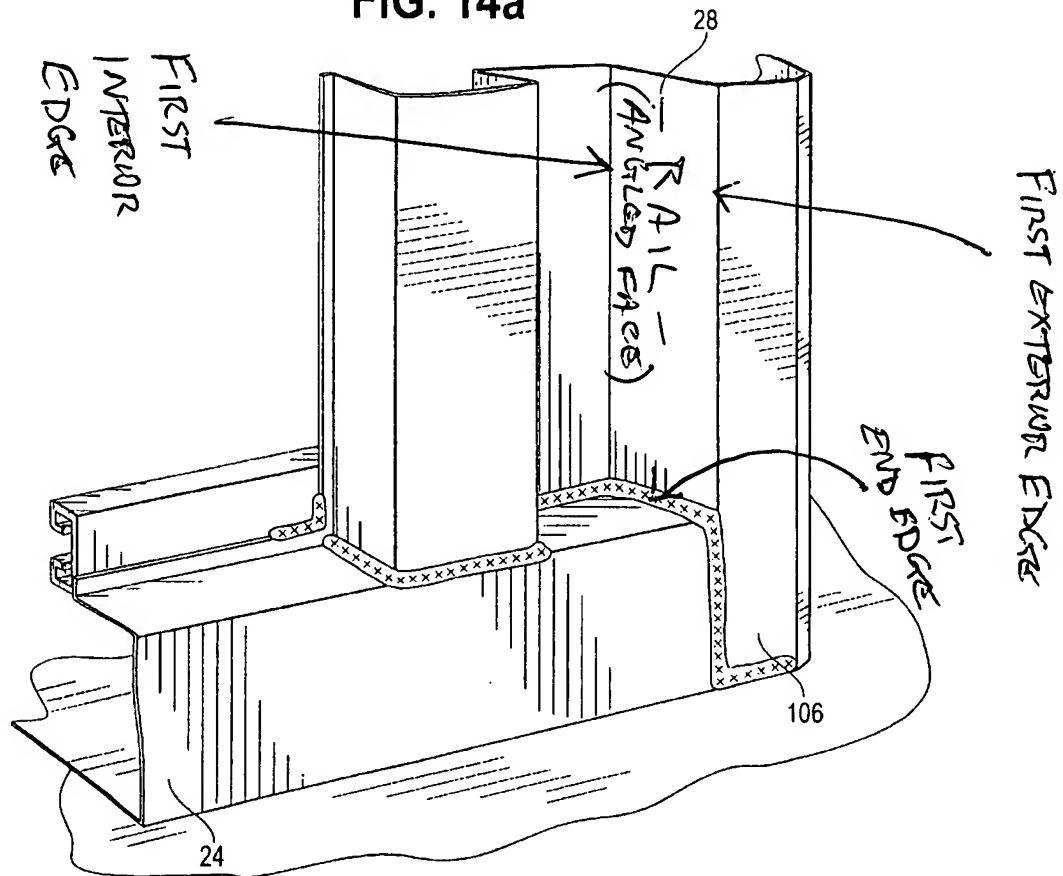


FIG. 14b

